



P.B. 5818 - Patentlaan 2  
2280 HV Rijswijk (ZH)  
☎ (070) 340 2040  
Tx 31651 epo nl  
FAX (070) 340 3016

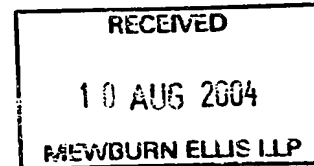
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Département A  
La Haye  
Division de la  
recherche

Kiddle, Simon John  
Mewburn Ellis LLP  
York House,  
23 Kingsway  
London WC2B 6HP  
GRANDE BRETAGNE

DOI	19/19/04	ENT'D FOR	AMS
ENT'D	W		
TO 1.		2.	



Datum/Date

09. 08. 2004

Zeichen/Ref./Réf.

IMA/FP5832761

Anmeldung Nr./Application No./Demande n°//Patent Nr./Patent No./Brevet n°  
98940779.6-1222/US9815967

Anmelder/Applicant/Demandeur//Patentinhaber/Proprietor/Titulaire  
Virologic, Inc.

## COMMUNICATION

The European Patent Office herewith transmits the partial European search report under Rule 46(1) EPC relating to the above-mentioned European patent application.

Copies of the documents cited in the search report are enclosed.

The applicant's attention is drawn to the following:

The search Division informs the applicant that if the European search report is also to cover inventions other than the invention first mentioned in the claims, a further search fee must be paid for each of these inventions, within ONE MONTH after notification of this communication.

If the application has been filed up to 30 June 1999, the search fee in force before 01 July 1999 (EUR 869.--) or the equivalent applicable on the date of payment is payable.

**This applies also to the search fees requested under Rule 46(1) EPC.**  
See also OJ EPO 06/1999, 405.

- ☐ The abstract was modified by the Search Division and the definitive text is attached to the present communication.
- ☒ Additional set(s) of copies of the documents cited in the European search report is (are) enclosed as well.

RECORDS ENT'D	W
CLAIMS ENT'D	
RENEWAL ENT'D	
ALREADY ENT'D	

Ms G. LLORENÇA

9.16.04



Note to users of the automatic debiting procedure:

Unless the EPO receives prior instructions to the contrary, the search fee(s) will be debited on the last day of the period for payment. For further details see the Arrangements for the automatic debiting procedure, Supplement to OJ EPO 02/1999.

REGISTERED LETTER



The Search Division considers that the present European patent application does not comply with the requirements of unity of invention and relates to several inventions or groups of inventions, namely:

1. claims: 4, 21, 25, 26(completely) and 1-3.6-20, 23-24, 28-36 (partially)

A resistance test vector comprising a patient-derived segment and an indicator gene, wherein the patient-derived segment comprises a HCV viral gene, and the use of such a construct in determining the susceptibility of such a vector to anti-HCV drugs.

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2. claims: Claims 5, 22, 27 (completely) and 1-3.6-20, 23-24, 28-36 (partially)

A resistance test vector comprising a patient-derived segment and an indicator gene, wherein the patient-derived segment comprises an HCMV gene, and the use of such a construct in determining the susceptibility of such a vector to anti-HCMV drugs.

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The common concept of the claimed subject-matter must be seen in the provision of a resistance test vector comprising a patient-derived segment and an indicator gene, wherein the patient-derived segment comprises a viral gene, and the use of such a construct in determining the susceptibility of such a vector to viral drugs.

Strair et al. (1993, Nucleic Acids Research, vol. 21, p 4836-4842) discloses a viral vector comprising a "tested" segment and an indicator gene, wherein the tested segment comprises a viral gene (resulting from rescuing a defective provirus encoding either LacZ or gpt with "helper" HIV which is the population which is tested in the assay), and the use of such a construct in determining the susceptibility of such a vector to viral drugs (by infecting host cells with it).

W09522622 discloses a vector comprising a patient derived HIV RT gene (claim 17; page 13, lines 12-36) and an antibiotic resistance gene (page 10, lines 24-35) which is used as an indicator to determine the susceptibility of the patient derived segment to candidate viral drugs.

Therefore the common concept of the claimed subject-matter is already disclosed in the prior art, and no other common concept can be distinguished which in the light of the prior art could be regarded as common inventive concept. there is no single inventive concept underlying the plurality of claimed inventions as required by Article 82 EPC.



European Patent  
Office

**SUPPLEMENTARY  
PARTIAL EUROPEAN SEARCH REPORT**  
under Rule 46, paragraph 1 of the European Patent  
Convention

Application Number

EP 98 94 0779

DOCUMENTS CONSIDERED TO BE RELEVANT			
Category	Citation of document with indication, where appropriate, of relevant passages	Relevant to claim	CLASSIFICATION OF THE APPLICATION (Int.Cl.6)
Y	STRAIR R K ET AL: "RECOMBINANT RETROVIRAL SYSTEMS FOR THE ANALYSIS OF DRUG RESISTANT HIV" NUCLEIC ACIDS RESEARCH, OXFORD UNIVERSITY PRESS, SURREY, GB, vol. 21, no. 20, 1993, pages 4836-4842, XP002924448 ISSN: 0305-1048 * the whole document *	1-4, 6-8, 10, 11, 13-21, 24-28, 30-36	C12Q1/68
Y	WO 95/22622 A (UNIV WASHINGTON) 24 August 1995 (1995-08-24)  * the whole document *  ----- -/--	1-4, 6-8, 10, 13-21, 23-28, 30-36	
			TECHNICAL FIELDS SEARCHED (Int.Cl.6)
			C12Q
<b>LACK OF UNITY OF INVENTION</b>			
The Search Division considers that the present European patent application does not comply with the requirements of unity of invention and relates to several inventions or groups of inventions, namely:			
see sheet B			
The present partial European search report has been drawn up for those parts of the European patent application which relate to the invention first mentioned in the claims.			
Place of search		Date of completion of the search	Examiner
The Hague		17 June 2004	Cornelis, K
<b>CATEGORY OF CITED DOCUMENTS</b>			
X : particularly relevant if taken alone Y : particularly relevant if combined with another document of the same category A : technological background O : non-written disclosure P : intermediate document			
T : theory or principle underlying the invention E : earlier patent document, but published on, or after the filing date D : document cited in the application L : document cited for other reasons ----- & : member of the same patent family, corresponding document			

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EPO FORM 1503 03.82 (P04C23)



DOCUMENTS CONSIDERED TO BE RELEVANT			CLASSIFICATION OF THE APPLICATION (Int.Cl.6)
Category	Citation of document with indication, where appropriate, of relevant passages	Relevant to claim	
Y	ENOMOTO N ET AL: "Hepatitis C virus quasispecies populations during chronic hepatitis C infection" TRENDS IN MICROBIOLOGY 1995 UNITED KINGDOM, vol. 3, no. 11, 1995, pages 445-447, XP002284841 ISSN: 0966-842X * the whole document *	1-4,6-8, 10,11, 13-21, 24-28, 30-36	
D,A	HAHM BUMSUK ET AL: "Generation of a novel poliovirus with a requirement of hepatitis C virus protease NS3 activity" VIROLOGY, vol. 226, no. 2, 1996, pages 318-326, XP002284878 ISSN: 0042-6822 * the whole document *	1-36	
A	EP 0 291 893 A (DU PONT) 23 November 1988 (1988-11-23) * the whole document *	1-36	TECHNICAL FIELDS SEARCHED (Int.Cl.6)
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# ANNEX TO THE EUROPEAN SEARCH REPORT ON EUROPEAN PATENT APPLICATION NO.

EP 98 94 0779

This annex lists the patent family members relating to the patent documents cited in the above-mentioned European search report.  
The members are as contained in the European Patent Office EDP file on  
The European Patent Office is in no way liable for these particulars which are merely given for the purpose of information.

17-06-2004

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For more details about this annex : see Official Journal of the European Patent Office, No. 12/82

**ANNEX TO THE EUROPEAN SEARCH REPORT  
ON EUROPEAN PATENT APPLICATION NO.**

EP 98 94 0779

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